IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 3385 of 2007(C)

OS.710/1999 of I ADDL.SUB COURT,ERNAKULAM
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PETITIONER:

STANLEY. K.P., AGED 54,
S/O.LATE PAPPU, KOLAPPILLIL HOUSE,
HOUSE NO.43/1438, POWER HOUSE EXTENSION ROAD,
ERNAKULAM NORTH, THRIKKANARVATTOM VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY
SRI.E.M.MURUGAN

RESPONDENTS:

K.P. JOSEPH, AGED 49, S/O.LATE PAPPU,
KOLAPPILLIL HOUSE, HOUSE NO.43/1438,
POWER HOUSE EXTENSION ROAD, ERNAKULAM NORTH,
THRIKKANARVATTOM VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.3385 OF 2007

Dated 31st January 2007

J U D G M E N T

Petitioner is plaintiff and respondent defendant in O.S.710/99 on the file of Additional Sub court, Ernakulam. Petitioner filed applications before the trial court to call for documents and for a direction to respondent to give specimen signatures for the purpose of comparison. They were dismissed. The orders were challenged before this court in W.P. (C).No.18953/04. Under Ext.P1 judgment dated 3/3/2006, this court quashed the orders passed by trial court and directed petitioner to pay cost of Rs.7,500/- and directed him to take steps before the trial court to get the signatures in the cheque compared with the admitted--specimen signature of respondent. Pursuant to this direction, disputed cheque with specimen signature was sent to Forensic Science Laboratory, Thiruvananthapuram. Case of petitioner is that Forensic Science Laboratory sent Ext.P2 report to the court stating that few more standard signatures of the

respondent in the normal course near about the period of 1998 is to be sent for giving an opinion. According to petitioner this was not brought to his notice and therefore he could not take any further steps and coming to know about Ext.P2 order, petitioner filed Ext.P3 application to advance the hearing and Ext.P4 application to remove the suit from the special list, which was included on 01/02/2007 and Ext.P5 petition to direct respondent to appear before the court to comply with the demands made by Forensic Science Laboratory in Ext.P2 report. Petitioner further submitted that in spite of filing of applications, Ext.P3 application was dismissed and no orders were passed on Exts.P3 and P5 applications. Apprehending that suit will be proceeded with before getting a report, after complying with the demands made in Ext.P2 report, this petition is filed under Article 227 of Constitution of India.

2. Learned counsel appearing for petitioner was heard.

3. It is clear from Ext.P2 report that a final opinion has not been arrived at by the expert in Forensic Science Laboratory. Disputed cheque was forwarded to Forensic Science Laboratory as directed by

this court under Ext.P1 judgment. In such circumstances, before proceeding with the trial, learned Sub Judge has to consider Exts.P4 and P5 applications and pass appropriate orders in accordance with law before proceeding with the trial.

Writ petition is disposed of accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.